

DEL NORTE COUNTY ENFORCEMENT WORKPLAN FOR 2007/2008, 2008/2009, and 2009/2010

I. Pesticide Use Enforcement Resources

A. Personnel

1. 1 Ag Commissioner, mainly administration
2. 1 Ag Biologist, primary resource for pesticide use enforcement (PUE); has other duties in Agriculture and Weights & Measures and as an Animal Control Hearing Officer
3. 1 Ag Aide, support hours
4. 1 Clerical position, support hours

B. Expected Workload PUE

1. The last three-year average is more than 100 compliance monitoring inspections per year. Last year there were 21 permits, 80 Notices of Intent (NOIs), and 11 pesticide investigations (None were priority investigations).
2. According to the last three annual financial statements, approximately 37% of our Ag Com budget is spent on PUE, which includes 100% use reporting.
3. Pesticide use in 2005 and 2006 average approximately over 366,000 pounds per year.
4. Restricted materials use is concentrated in summer fumigations (Metam-Sodium, Telone, and small acreages (less than five acres) of Methyl-Bromide) and fall planting (Thimet, Disyston, Mocap).
5. There are no expected changes or shifts in inspection types or priorities (unless aerial application of herbicides to timber occur—the last application was 2001).
6. It is anticipated that there will be changes in the permit process and regulations for fumigation activities.

C. Corrective Actions

1. No corrective actions were noted on our last Pesticide Program Effectiveness Evaluation.

II. Core Program Activities

A. Restricted Materials Permitting

1. Site Monitoring

- a) Pre-site inspections shall be made on all fields next to the schools.
- b) Pre-site inspections shall be targeted on sensitive sites for summer fumigation and fall planting. Sensitive sites shall include, but not be limited to, mobile home parks, housing projects, child day care centers, commercial buildings and homes next to fields.
- c) Pre-site inspections shall also be targeted for timber applications.
- d) All of the above pre-site inspections are a high priority for worker safety and/or environmental reasons. We will strive for a minimum of 20% inspection rate on these applications.
- e) If pesticide illnesses occur on these sensitive sites, or there are excessive violations noted, then the site monitoring plan will be assessed and changes made as needed.

2. Hazard Evaluation

- a) Wellhead Protection: All maps shall list well locations.
- b) Condition permits to mitigate newly-identified hazards. Example: Restrictions to Category I restricted materials next to schools and child day care centers.
- c) Review individual sites on permits for issues such as wellhead protection and

sensitive sites. The Department of Pesticide Regulation's (DPR's) oversight/evaluations and pre-site inspections are used to assess decisions made in the reviewing process.

- d) Review the need for restricted materials versus non-restricted materials.
- e) Episode investigations/complaints are considered when issuing permits. Example: Most complaints come from one person and pre-site inspections will be made on fields next to that person's property.

3. Permit Guidance

- a) Our department relies strongly on training provided by DPR. Example: Restricted Materials and Permitting Training. This includes written policies and procedures provided in manuals developed by DPR including Inspection Procedures Manual, and Restricted Materials and Permitting Manual. Continued training opportunities are appreciated and supported by the Ag Commissioner.
- b) The Biologist who issues the vast majority of permits has over twenty-one years experience issuing restricted materials permits (RMPs).
- c) Del Norte County has Forest Herbicide Permit Conditions and a DPR-supplied RMP Exam.
- d) Del Norte County will use DPR manuals concerning RMPs and permit issuance training supplied by DPR.

4. Strengths

- a) Allows flexibility to review the need for restricted materials vs. non-restricted materials. Example: A grower wanted to get a permit for a restricted herbicide. A non-restricted herbicide was suggested instead, and that is what he now uses.
- b) Participation at the Bulb Growers Meetings allows rapid and effective communication to the majority of permit holders to any changes and/or anticipated changes in the restricted materials process. Example: Give out information concerning fumigation rule changes and new permit condition regulations for fumigants.

5. Areas Needing Improvement

- a) Del Norte County is in the process of implementing a GIS mapping program that can be incorporated into the permit process. The GIS system is progressing slowly.
- b) There have been major changes in the locations of lily fields this year. All maps must be updated with new field locations, sensitive sites, etc.
- c) There have been changes in pesticide formulations being used. An example is only liquid Disyston is now available. During the permit process, growers should be informed of the requirement of using a closed system and other worker safety issues.

B. Compliance Monitoring: The Enforcement Response Policy (ERP) is the major guidance for compliance monitoring. (See attached ERP)

1. Priority Investigations

- a) Del Norte County has not had a priority investigation in over ten years. If there is one, it will be investigated immediately, and a 15-day report will be made, following all guidelines in the Pesticide Episode Investigation Procedures Manual. The investigation report will be complete, thorough and we will keep DPR informed of the investigation.

2. Routine Investigations/Complaints

- a) Del Norte County investigates approximately 8-10 pesticide illness investigations per year (most of these are anti-microbial investigations) and the vast majority have been completed within sixty days. We plan to continue this pattern. We will submit all investigations to DPR through our Enforcement Branch Liaison (EBL) and will use his feedback to make any necessary changes to improve our pesticide episode investigations.
- b) All pesticide complaints shall be investigated within thirty days of receipt and logged on a monthly tracking report. As a large percentage of Del Norte County complaints have been from one individual; these complaints shall be evaluated for validity and shall be discussed with our EBL.

3. Pest Control Inspections

- a) Strategy: The goal is to improve the program so that violations are detected and corrected before they can cause pesticide episodes where people or the environment are harmed. The main emphasis of our targeted inspections will be summer fumigations (Metam-Sodium, Telone, Methyl Bromide) and fall pre-plant (Thimet, Disyston, Mocap), field worker safety and aerial applications to timber, if any. The restricted materials listed above present a hazard to applicators and the public if used improperly and aerial applications to timber present environmental issues that must be addressed and monitored. Flexible scheduling is used when after-hour inspections are needed.
- b) Review Process
 - 1. Consultation with DPR and attendance at DPR-provided training (respiratory protection regulations), will facilitate communication of the new regulations.
 - 2. Review process of violations identified. The pesticide inspection tracking system, targeted inspections and consultation with DPR will help eliminate redundant and low priority inspections.
 - 3. The tracking system records date, specific grower/pest control operator, pesticides used, non-compliances, enforcement/compliance actions taken, and if the non-compliances have been corrected. The inspection reports are attached for further review if needed.

4. Strengths

- a) Past evaluations indicate a history of conducting investigations thoroughly and in a timely manner.
- b) Past evaluations indicate the majority of inspections are thorough and complete. The DPR oversight inspections and evaluations will be used to review our inspection strategy and to determine errors in compliance.
- c) The county Ag Commissioner's tracking program of pesticide violations is updated monthly to ensure that reinspections, appropriate follow-up procedures and enforcement actions as needed, are implemented.
- d) Attendance at Easter Lily Bulb Growers Meetings will allow Del Norte County to go over pesticide labels, laws and regulations to keep a high level of compliance with pesticide laws and regulations. Del Norte County stressed the importance of avoiding repeat violations and the fact that enforcement actions will be and have been taken on repeat violations. Particular attention has been given to the summer fumigation period, and fall planting period, when organophosphates are used. Training has been given by Dow Chemical for Telone, and Amvac has given Stewardship and Handling Training for Metam-Sodium. Worker safety issues such as medical

supervision, using closed systems, and the need for respirator use after Telone applications was stressed.

- e) Training is an integral part of any improvement plan. The county Ag Commissioner has and will continue to show a strong willingness to encourage Biologist participation in the DPR's sponsored training and the oversight inspection program. These programs will provide feedback on the level of performance the Biologist is accomplishing and will also help reinforce the knowledge and skills needed to perform PUE inspections. Other training programs offered, such as respirator protection regulations, will only enhance the biologist's knowledge and skills.

5. Areas Needing Improvement

- a) Regular consultation with our EBL will keep DPR informed of our local issues and help address any problems identified in the review process.
Example: An inspection revealed some warning signs were properly posted, but then moved by irrigators, and not properly replaced. Discussions with growers at a bulb growers meeting indicated this had happened before. Growers were informed this could result in enforcement actions being taken.
- b) Lack of licensed personnel is an on-going problem since there is only one inspector available to make inspections. In the summer of 2007, the Agricultural Commissioner retired, and was not replaced until late November 2007. The inspector had to do both duties, and the pesticide enforcement program was reduced. This could happen again. Example: Illness, etc.
- c) Due to budget limitations, there are no routine weekend inspections. In special circumstances, they can be authorized. Example: Aerial application of herbicides to timberlands.
- d) There is an on-going problem of Federal pesticide labels vs. California labels. Some of the growers farm in both Oregon and California. There are no Pesticide Dealers in Del Norte County. The farmers buy their chemicals in Oregon.

C. Enforcement Response

1. Violation History Tracking

- a) The majority of restricted materials use in Del Norte County is by five lily bulb growers, so tracking repeat violations is relatively easy. The tracking system provides a summary that is used to provide a means of targeting specific violators, and types of violations. Example: Headquarter inspections—medical supervision non-compliances.
- b) Review of the last few years of non-compliances will help determine enforcement response activities and assist in restricted materials evaluations.
- c) DPR uses the tracking system in their evaluations of our PUE program.

2. Review and Decision Process

- a) If violations are "fix-it" types (Example: legible storage signs, etc.), reinspections are made to insure corrections have been made.
- b) Other violations will be evaluated based on severity, repeat violations, etc. The ERP and discussion with the Ag Commissioner and EBL will all be used to determine what enforcement actions will be used. All options will be considered. (See ERP Attachment)

3. Strengths

- a) The DPR-provided ERP Training and the ERP Manual to help us implement enforcement actions.

- b) Attendance at Bulb Growers Meetings will facilitate getting important worker safety information and training to the bulb growers.
 - c) This training has increased compliance rates in issues such as fumigation inspections.
 - d) Attendance at the Bulb Growers Meetings, education, reinspections, Notice of Violations, warning letters and enforcement actions have all contributed to compliance with pesticide laws and regulations.
 - e) We had one civil penalty action in 2006 and one in 2007. This has reinforced the ideas that repeat non-compliances will have consequences.
4. Areas Needing Improvement
- a) Due to staffing shortages, no respiratory protection training has been given to growers yet. When they get back from their vacations, DPR will give this training during an early winter Bulb Growers Meeting.
 - b) Writing decision reports as required.
 - c) Writing Notices of Proposed Action (NOPAs).

III. Desirable Activities

- A. Attendance at Easter Lily Research Foundation meetings (Bulb Growers). There are currently five (5) easter lily growers in Del Norte County. Most attend the Bulb Growers Meetings on a regular basis. About three miles north of the California/Oregon border in Brookings, Oregon is the Pacific Bulb Growers Research Station. Lee Riddle, Research Manager, gives updates at these meetings. Various Chemical Companies also attend. Between them, they give updates and training on subjects such as nematode and disease control, new chemicals, label changes, registration status, new pythium control chemicals, bio-fungicides and nematode control alternatives. Mr. Riddle also updates the growers on alternatives to Methyl-Bromide, new methods of pest control, less toxic alternatives to pesticide use and methods to reduce resistance problems on certain fungicides. U. C. Nematologist, Dr. Becky Westerdahl, has experimental plots at the station and gives periodic updates. Oregon State Cooperative Extension personnel, Debra Giraud, University of California Farm Advisor, USDA Natural Resource Conservation Service, etc. attend these meetings. The Del Norte County Agricultural Biologist has attended a majority of the monthly growers meetings and plan to continue to do so in the future.
- B. Attendance at Bulb Growers Meetings will allow Del Norte County to go over label requirements for fungicides, insecticides, etc. Examples include Chipco label, new Daconil replacements, etc. It will allow communications on what is required for headquarters inspections. It will allow information to be given on upcoming laws/regulation changes (Example: The new respiratory protection regulations, and upcoming fumigation rule changes). Chemical companies have given information on label requirements/changes and training (such as new pythium control chemistry), and company-sponsored training on Thimet, Telone and Metam-Sodium.
- C. Communication at the Bulb Growers Meetings will help keep a high level of compliance with pesticide laws and regulations. It also gives the growers a chance for input on some of the issues that directly affect them. It promotes training, such as reviewing

pesticide labels that concern fieldworker safety. It is also an excellent place for all to keep abreast of the registration status of new and old pesticide products and new pest control strategies. Example: Fungicide rotation; new fungicide chemistry.

- D. These meetings are valuable for growers and agricultural staff to keep abreast of pesticide and environmental issues. These include research into new chemicals, new varieties of lilies and new methods of pest control. An example is Dr. Westerdahl's presentation on nematode control alternatives.
- E. Environmental issues have been on-going for the bulb growing community. Some of these issues concern water quality (well water, surface water run-off) and endangered species in the Smith River Estuary. DPR has sent endangered species specialists to these meetings. Attendance at the meetings will allow an opportunity for Ag. staff and growers to get continuing education credits. These meetings will provide a forum for regular updates on Sudden Oak Death disease and regulations, Light Brown Apple Moth Quarantines and Canadian import requirements although not pesticide-related, it is a very important issue.

ENFORCEMENT RESPONSE POLICY ATTACHMENT

The ERP classifies non-compliances as Hazard of Effect Violations (HEV) or Unclassified Violations (UV). For fine purposes, HEV's are further broken down into Class A (serious; \$700-\$5,000) Fines and Class B (moderate; \$250-\$1,000) Fines. Class A fines are employed for violations that create an actual health or environmental hazard, and Class B fines are for violations that pose a reasonable possibility of creating a health or environmental effect. UV's carry Class C (minor; \$50-\$400) Fines and are reserved for violations that do not threaten health, property or the environment. The ultimate fine level within the class is determined by assessing the respondent's compliance history, the amount of cooperation during the investigation and the level of harm or damage done to persons, the environment or property.

If the inspected party has had a clean compliance history for the past two years, and the non-compliances noted during an inspection are UV's that are corrected on site, the biologist will contact the permittee concerning the infraction. In cases where the violation did not threaten health, property or the environment, the non-compliance checked on the inspection form would serve as the method of documenting the issue. For subsequent UV incidents, Enforcement Actions, including the levying of fines, may be proposed.

For first incident infractions of an HEV-B, a Compliance Action would be issued or an Enforcement Action proposed. Compliance actions would include Warning Letters, Violation Notices or Documented Compliance Interviews. All Warning Letters and Violation Notices are reviewed by the Deputy and given final review by the Agricultural Commissioner prior to mailing. A Documented Compliance Interview is an informal meeting between someone with compliance issues and members of the CAC staff, with the purpose of coming to an understanding of what is required to be in compliance. A document outlining what was discussed at the meeting is produced and signed by all in attendance. If a compliance action is issued, a Decision Report would need to be completed and submitted to DPR to justify why a fine was not proposed. All subsequent HEV-B violations, an Enforcement Action would be proposed.

For all HEV-A violations, an enforcement action is required. Some serious violations may warrant referral to the County District Attorney or DPR for prosecution. When a serious violation is identified as a result of an inspection or a pesticide episode investigation, or if repeat violations occur, the above-mentioned compliance actions may not serve as the appropriate response to ensure compliance. At this point an enforcement action would be warranted. Examples of commonly used enforcement actions are: Agricultural Civil Penalties (ACP); Structural Civil Penalties (SCP); revocation or suspension of county registration; and refusal, revocation or suspension of a restricted materials permit. An ACP includes the proposal of a fine. Violations identified on an inspection would trigger a thorough investigation as discussed earlier in the Investigative Response and Reporting Improvement section. Evidence that supports each element of a violation would be documented in the report. The findings in the written investigative report serve as the foundation for a civil penalty action. Since an ACP includes the proposal of a fine, respondents must be afforded their due process rights. Along with the Notice of Proposed Action (NOPA), a copy of the investigative report is sent to the respondent. They may pay the proposed fine or request a hearing and present evidence on their own behalf with the intent to disprove alleged violations.